

Counterintel  
&  
Security

OLL 85-3116/1  
16 October 1985

MEMORANDUM FOR THE RECORD

SUBJECT: OPM & DoJ/FBI Letters on S.1271's  
Access to State & Local Criminal  
Records - Comments to OMB

1. On 12 October 1985, I attempted to reach Tracey Lawler, Legislative Analyst, Office of Management and Budget (OMB) but was unable to do so. My purpose in calling her was to convey to her the Agency's position on the views letters of the Office of Personnel Management (OPM) and the Department of Justice (DOJ)/Federal Bureau of Investigation (FBI) on the provision in S. 1271 which grants certain federal agencies access to state and local criminal records.

2. Prior to my call, C/LEG/OLL had met with Russ Neely, OMB, to discuss the Agency's views letter on S. 1271. In the course of those discussions, the issues raised by the OPM and FBI letters were discussed and the Agency's views thereon conveyed to OMB. Those views were also conveyed directly to FBI representatives at the monthly Intelligence Community meeting of 9 October 1985.

3. Accordingly, when Ms. Lawler did not return my call, I did not feel it necessary to call her again.

P

STAT

Legislation Division  
Office of Legislative Liaison

Distribution:

Original - Leg/Sub - Intel Auth, Counterintel & Security, Misc. Gen.  
1 - D/OLL  
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LEG/OLL:  (16 Oct 1985)

STAT

Action  
OLL 85-3116

**Office of Legislative Liaison**  
**Routing Slip**

TO:	ACTION	INFO
1. D/OLL		X
2. DD/OLL		X
3. Admin Officer		
4. Liaison		X
5. Legislation	X	
		X
		X
8.		
9.		
10.		
SUSPENSE		10 Oct 85
		Date

Action Officer:	
Remarks: <i>Action Completed per</i> <i>MFR DATED 16 OCT - OLL 85-3116/1</i> <i>Also completes OLL 85-3087</i>	

GJ / 9 Oct 85  
Name/Date

**EXECUT. & OFFICE OF THE PRESIDENT****OFFICE OF MANAGEMENT AND BUDGET****WASHINGTON, D.C. 20503****October 9, 1985**LEGISLATIVE LIAISON  
85-3110**SPECIAL****LEGISLATIVE REFERRAL MEMORANDUM****TO:****Legislative Liaison Officer-**

Department of Justice (J. Perkins 633-2113)

Department of State (Berkenbile 632-0430)

/Central Intelligence Agency (S. Hermes 351-6126)

Department of Defense (W. Windus 697-1305)

**SUBJECT:** OPM draft report on H.R. 2419, Intelligence Authorization Bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than  
THURSDAY, OCTOBER 10, 1985

Questions should be referred to Sue Thau/Tracey Lawler (395-7300), the legislative analyst in this office.

**RONALD K. PETERSON FOR  
Assistant Director for  
Legislative Reference**

**Enclosures****CC: Russ Neely****SPECIAL**



Office of the Director

UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, D.C. 20415

*Dr. [unclear]*

*copy to Asst. Secy -*

*from*

Honorable Sam Nunn  
Ranking Member  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510

Dear Senator Nunn:

This is a voluntary report on Title VIII of S. 1271, "Intelligence Authorization Act for Fiscal Year 1986."

This amendment addresses a longstanding concern of this agency over the restrictions imposed by State and local law enforcement authorities on Federal investigative access to criminal history record information.

If enacted, S. 1271 would be a major step toward solving a serious access problem that hinders the national security investigative activities of the Department of Defense, Central Intelligence Agency, and Office of Personnel Management. We strongly support enactment of Title VIII.

The Office of Management and Budget advises that from the standpoint of the President's program there is no objection to the submission of this report.

Sincerely,

Constance Horner  
Director



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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

October 9, 1985

**SPECIAL**

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer-

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*Ronald K. Peterson*

RONALD K. PETERSON FOR  
Assistant Director for  
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Enclosures

cc: Russ Neely

**SPECIAL**



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WASHINGTON, D.C. 20415

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## U.S. Department of Justice

## Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

**DRAFT**

Honorable Dave Durenberger  
Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, D.C.

Dear Mr. Chairman:

I understand your Committee is now reviewing H.R. 2419, the intelligence authorization bill, which passed the Senate on September 26, 1985 and is about to go to conference. The FBI has learned that this bill now contains language enabling the Department of Defense, the Office of Personnel Management and the Central Intelligence Agency to access Federal, state, and local criminal justice agencies criminal history records for the purpose of determining potential employees access to classified information or assignment to national security duties. The FBI requests that this portion of the bill be revised to include the Bureau as an agency able to obtain these criminal history records for the purpose of background investigations.

The bill does not include the FBI in its provisions, despite the long-standing responsibilities of the Bureau in the conduct of background investigations. However, the Bureau has also faced difficulties in recent years in making checks of the records of state and local agencies for background investigations, primarily because of state and local legislation triggered by, and similar to, the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

For example, the FBI's California Offices are precluded from access to the California Law Enforcement Telecommunications System/Criminal Justice Information System for the purpose of conducting criminal history checks in background investigations.

**DRAFT**



**DRAFT**

Honorable Dave Durenberger

The California Department of Justice has interpreted that State's Freedom of Information and Privacy Acts, which prohibit use of information developed by law enforcement agencies for other than law enforcement purposes, to exclude background investigations from the realm of law enforcement purposes. The Metropolitan Police Department, Washington, D.C., has taken a similar position with regard to criminal record checks, and the FBI is precluded from reviewing those records during background investigations without a release executed by the subject of the inquiry. In some cases, even with a release, some information on the applicant has been withheld.

Other states have similar laws restricting the use of criminal record information for employment purposes. To date, however, these laws have not been interpreted to preclude FBI access to the records for our background investigations. Further because the FBI is decentralizing its record-keeping practices and state and local authorities are becoming increasingly responsible for the maintenance and dissemination of their criminal records, our ability to obtain complete criminal record information for employees' background investigations may become more difficult.

Therefore, to address current problems and potential concerns, the FBI should be included in those agencies entitled to gain access to criminal history information by this bill. This will ensure that the Bureau can adequately fulfill its responsibilities in conducting background investigations.

I appreciate your attention to this matter. If you or your staff need any further information on this matter please contact SA Margaret R. Owens, Congressional Affairs Office, telephone 324-4515.

Sincerely yours,

William H. Webster  
Director

**DRAFT**

OLL 85-3087

**Office of Legislative Liaison**  
Routing Slip

TO:	ACTION	INFO
1. D/OLL		x
2. DD/OLL		x
3. Admin Officer		
4. Liaison		
5. Legislation	x	
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SUSPENSE 10 Oct 85  
Date

Action Officer:

STAT

Remarks: *Action completed*  
*See OLL 85-3116*Gina/9 Oct 85  
Name/Date

LEGISLATIVE LIAISON

85-3087



**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503**

**SPECIAL**

October 8, 1985

**LEGISLATIVE REFERRAL MEMORANDUM**

**TO:**

**Legislative Liaison Officer-**

Central Intelligence Agency  
Office of Personnel Management - Moffit- 632-6516 (22)  
Department of Defense - Windus - 697-1305 (06)  
Department of State - Berkenbile - 632-0430 (25)

**SUBJECT:**

Justice draft letter on H.R. 2419 - Intelligence  
Authorization Bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

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*Ronald K. Peterson*  
**RONALD K. PETERSON FOR  
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**Enclosures**

cc: R. Neely

**SPECIAL**



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## Federal Bureau of Investigation

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